

REMARKS

The Official Action of April 10, 2003 has been carefully considered and reconsideration of the application as amended is respectfully requested.

Claims 29 and 30 have been canceled to remove the basis for the objections to these claims appearing in the first paragraph on the top of page 2 of the Official Action. The other objections appearing in this paragraph are respectfully traversed.

Each of claims 11, 12, 31, and 32 is directed to a different class of invention (e.g., "record" or "ink jet recording method" as compared to "ink composition") from the claim(s) to which it refers. As discussed in MPEP Section 2173.05(f), claims of different classes which make reference to a preceding claim to define a limitation are acceptable. This being the case, it is respectfully submitted that the claims directed to a **recording method or record** need not further limit the **ink composition as** contemplated in the objection. In short, the provisions of 37 CFR 1.75(c) are inapplicable to these claims (see, also, MPEP Section 608.01(n) at paragraph II: "this rule (37 CFR 1.75(c)) does not apply to product-by-process claims").

Claims 1-5 and 9-12 stand rejected under 35 USC 102(e) as allegedly being anticipated by Hayashi. The remaining claims stand rejected under 35 USC 103(a) as allegedly being unpatentable over Hayashi. Applicants respectfully traverse these rejections.

With respect to the 35 USC 102(e) rejection, Applicants respectfully note that, to be citable under 35 USC 102(e), a reference must be a US patent, a US application publication or a WIPO publication of an international application under PCT Article 21(2) (see MPEP 706.02(f)(1)). Hayashi is a published European Patent Application and is not citable under the provisions of 35 USC 102(e). Since Hayashi is not citable under 35 USC 102(e), it is also not citable under the provisions of 35 USC 103 via 102(e). Even if it were, Hayashi would be disqualified as prior art against the claimed invention by virtue of the common ownership of the claimed subject matter and the subject matter described in Hayashi (see 35 USC 103(c)). In this respect, Applicants respectfully note that both the reference and the present application has been assigned to Seiko Epson Corporation.

In view of the above, it is respectfully submitted that all rejections and objections of record have been overcome and should be withdrawn. An early and favorable reconsideration of the application as amended is earnestly solicited and is believed to be fully warranted.

Respectfully submitted,

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